25th April 1947] [Sri Kala Venkata Rao]

" With regard to confiscation to which Mr. Suryanarayana Rao referred, that point was raised in the Select Committee also, but it did not find agreement. A day may come when we will have to deal with these things with a wider outlook and with an eye to a more equitable system of owning lands. Till then, my hon. friends must be satisfied with the present measure which will fulfil the immediate object for which it was intended. There was no criticims about that matter. I hope the hon. members will pass the Bill with all possible speed."

The motion was put and carried.

Clauses 2 to 16 were put and carried.

The Schedule was put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

SRI KALA VENKATA RAO :—" I beg to move—
' *that the Bill be passed into law* '."

The motion was put and carried.

(3) THE MALABAR IRRIGATION WORKS (CONSTRUCTION AND LEVY OF CESS) BILL, 1947 (L.A. BILL NO. 14 OF 1947) (AS PASSED BY THE ASSEMBLY).

THE HON. SRI KALA VENKATA RAO :—" I beg to move—
' *that the Malabar Irrigation Works (Construction and Levy of Cess) Bill,* 1947 (*L.A. Bill No.* 14 *of* 1947) *as passed by the Assembly be taken into consideration at once.*'

" Malabar is a big district with a big population and also a big rainfall. As all know, the rivers flow directly into the sea and there are few irrigation works in the area. (The Hon. Sri K. Madhava Menon :—No irrigation works.) I can say that there is at least one irrigation work in Malabar. It was purchased from a private owner in 1902 for Rs. 3,152. It yields a net revenue of Rs. 240 per mensem. It is in Palghat taluk. Except this, the record shows that Malabar has no public irrigation work. The Bill provides for the acquisition of lands for the construction of reservoirs, tanks, dams, etc., in Malabar. The post-war schemes contain a few such proposals. But objection has been taken that the land in that area belongs to the janmis and not to the State. The object of the Bill is to confer on the Government powers necessary to acquire such private rights. Under clause 3 power is taken for the construction of irrigation works on Government or acquired lands.

" Another important feature is the levy of water-cess, which will be the first charge on the land and the crops raised thereon.

" Another important clause is that which does not pass off the benefit of the increased yield due to the supply of water from any irrigation work to the landlord. Whoever cultivates the land will get the benefit, and the janmi cannot claim any enhancement of rent.

" Therefore, this is a start, a good start I should say, for constructing irrigation works in Malabar, an area which, as I said in the beginning, has got a big population but which is deficit so far as food is concerned. Malabar is claiming to be a new linguistic province and that province ought to be self-sufficient in food. This Bill may help in the realization of that ideal. No objections have been received to the Bill which was published as early as January. I hope that this Bill will receive the general approval of the people of Malabar and that the House will accord its sanction to the legislation in as speedy a manner as possible.

" (Replying to an interruption) The new irrigation works have not yet been planned. First of all, it is necessary for the Government to acquire lands which form part of the bed of watercourses after paying compensation which shall not exceed the value of an equivalent extent of land on either bank of the watercourse adjoining the land acquired. More than dams, we have to construct tanks and reservoirs. I hope that a close investigation will be made and the works planned soon after we get the power that we want under this Bill."

K. UPPI SAHIB BAHADUR :—" This is the first occasion when the Government of Madras have ever thought of constructing irrigation works in Malabar. We have been crying for irrigation facilities in Malabar all these years, and it is gratifying that the Government have heard our cry and come forward with a Bill like this. We from Malabar are thankful that we also come under the scheme for the provision of irrigation works. (Interruption by Dr. V. K. John).

" We are talking about irrigation works. If my hon. Friend wants us to talk about Moplasthan, we are only looking for an opportunity to talk about it. My hon. Friend might pooh-pooh or talk in a spirit of levity. But many a thing which was talked of in such a spirit has become an accomplished fact. I will leave that matter at that for the present, and talk about irrigation.

6-30 p.m. " I hope my hon. Friend, the Revenue Minister, will not sleep over the Bill but will go ahead with the Bill, will not allow the Act to be a dead letter but will give effect to it and show some signs of activity in that part of the world. We the people of Malabar are thankful to him and to the Government for showing so much consideration to Malabar."

DR. V. K. JOHN :—" Sir, I rise to support the Bill and thank the Government for bringing forward the Bill. I want to assist them by making one suggestion. Under section 4 of the Act the Government have to make and publish a declaration under

25th April 1947] [Dr. V. K. John]

section 6 of the Land Acquisition Act without following the procedure laid down in sections 4 (1) and 5-A of that Act. A notification under section 4 (1) is necessary so that the market value of the land may be fixed. According to the Land Acquisition Act a date has to be fixed. No date is apparently fixed. It has been skipped over. I suggest that the Government might examine the position and find out whether a date should not be fixed on which the market value is to be fixed for land to be acquired. I have studied the Land Acquisition Act. I am very familiar with it. I suggest that the Government might examine this question. If they find that they have to fix a date, they might introduce an amending Bill which might fix the date from which this Act should come into force, so that there may not be speculation and high values are not paid. I have referred to this point because people must know when this Act will come into force."

* SRI M. NARAYANA MENON :—" Sir, I rise to thank the Government for bringing forward this Bill which is in fact, long overdue. For the last 150 years we have been crying " water, water." Though water is available, the people of Malabar are not benefited by it. The British Government was not pleased to provide us with irrigation facilities. Now this Government has come to our rescue and this Bill is the first step in that direction. So far as the rights which the Government has to acquire for the building of an anicut or a reservoir, I agree the provisions are unobjectionable. I have nothing to say about them except to point out a lacuna—as stated by my hon. Friend, Dr. John—that under section 4 a date has to be fixed. It is a small matter which may be got over by making proper rules.

" I wish to refer to some of the other provisions of the Bill. In Malabar river-beds belong to the owners of the banks on either side. If the bank on one side belongs to a person the river-bed adjacent to that bank belongs to him. If both the banks belong to the same person the river-bed between them wholly belongs to him. In Malabar the Government has no proprietary right over the land as in the ryotwari tracts. This point has been raised several times in courts and even the earliest decisions of the Madras High Court have upheld it. In the cases that have gone to the Privy Council the decisions are to the effect that the Government has no proprietary right over the lands in Malabar and consequently has no proprietary rights over river-beds. Even in the case of zamindars, this principle has been invariably applied though their proprietary rights over the banks are said to be derived from the Government. In Malabar this principle applies with greater fitness as individuals and not the Government are the owners of the lands.

" I shall refer to clause 5 of this Bill. Under that clause the Government have claimed much more than they ought to. I am pointing out this fact, so that the Government might explain

their intentions or correct the mistake. In clause 5, sub-clause (1) what the Government claims is that all the water in the water-course and all tributaries and branches thereof should become the property of the Government, when the Government constructs an irrigation work on the said watercourse. If the claim of the Government is to all the water in the watercourse, tributaries and branches up to the irrigation work one can understand it because the Government cannot distribute water properly when there is third party intervention with the water-supply. If water is allowed to go down to the river and to the sea, landowners on either side of the river must be entitled to use it as they have been doing prior to the passing of this Act. There is no justification on the part of the Government to claim their water also. It must be clearly expressed in the sub-clause that the water which the Government claims is water up to the irrigation system, and that all the rest of water flowing down the river might be made use of by people as they have been doing before. Otherwise the result will be this; petty landowners will have to go to Government officials, Revenue Inspectors, Tahsildars or Collectors and get permission from them to make use of the water. It is very difficult for them to approach these officials to get permission. I submit therefore that the Government should at the earliest opportunity definitely declare their rights with reference to the said sub-clause. I think the Government can do so in the rules they are making under the Act. Again, clause 6 says that any person who suffers loss on account of material diminution in the supply of water after the construction of the irrigation system shall be entitled to compensation for such loss. Of course it is quite clear that some compensation must be given. The compensation is provided at 15 times the loss in the case of lands which have been deprived of water and only 12 times in the case of other undertakings. In the Bill which was published originally it was only 12 times in both the cases. The Select Committee raised it to 15 times in the first case. I feel that the compensation provided is not sufficient in either case. I shall illustrate the point. Suppose the loss incurred every year by a landholder is Rs. 100. The compensation to him will be 15 times Rs. 100 that is Rs. 1,500. What is the interest he will get on this Rs. 1,500? What is the interest that the Government give? What is the ordinary bank rate? The bank gives 3 per cent. Government investments are giving 2½ or 3 per cent. The man loses every year more than Rs. 50. This is a public undertaking; it is done on behalf of the people. Why should particular individuals, suffer under such a provision? I hope the Government will consider the point and make necessary changes.

"The most obnoxious clause is clause 14 under which the rights which the owner has to enhance the rent on account of the irrigation system, have been taken away. This legislation is concerned only with the rights of the Government for taking powers in their hands in order that an irrigation system may be constructed. It is convenient to read clause 14 at this juncture—

25th April 1947] [Sri M. Narayana Menon]

'Any increase in the yield of the land or in the extent of land cultivated by reason of the supply of water from any irrigation work shall not entitle a landlord as defined in the Malabar Tenancy Act, 1929, to claim any enhancement of the rent or renewal fee payable to him nor shall such increase be taken into account in determining fair rent under that Act.'

I submit the money that is used for the construction of the irrigation system is not the money belonging to the tenant only, it is the money belonging to the people including the landowners. In fact the irrigation systems are constructed for the benefit of the land and of the persons owning the land. The cultivator also must get a portion of the benefit. To deny absolutely any benefit to the owner is neither fair nor equitable. I have been approached by many people in Malabar, by many landowners to submit to this House that this is an act of injury done to them, and of unfairness shown to them. The best course, therefore, is to drop clause 14 now but this point may be taken up when the tenancy legislation is attempted. If the House is not pleased now to fix a due proportion of the benefit to the landowner, let there be legislation after full and open discussion of the advantages and disadvantages of the course suggested. There is no point in the argument that people have not raised any objection to the Bill although it was published two months ago. Nobody ever expected that such a provision as clause 14 would be introduced in a legislation claiming river-beds for the construction of our irrigation system. Therefore people have paid no attention to this legislation. Suppose people have been negligent hitherto and suppose the difficulty is pointed out now only can we in fairness deny the right to them. My humble submission to the House is that this is a matter which the Government must take into consideration when the Tenancy Act is revised in the course of the next few months.

"This clause cannot be legally sustained with reference to the provisions in the Malabar Tenancy Act. Under that Act, for the calculation of fair rent and renewal fee, the gross yield of the property for three years immediately preceding the date of ascertainment must be taken into account. But under clause 14, in order to fix fair rent, we have to take into consideration what the annual gross yield of the land was prior to the construction of the irrigation work. It is very difficult even for the cleverest Commissioner or Revenue officer to do this. This Bill directly comes into conflict with the provisions of the Malabar Tenancy Act and Malabar Compensation for Tenants' Improvement Act. This point also may be considered when the revision of the Malabar Tenancy Act is taken up.

"One thing more I wish to point out. Under clause 6 some compensation is payable. To whom is this compensation payable? Is it payable to the landowners? Is it payable to the kanam tenant? Is it payable to the cultivating tenant? These are the three questions I wish to ask. If it is made payable to the cultivating tenant, it is a grave blunder. Under the Malabar Tenancy Act the tenant may give up the land at any time and may get away with the compensation amount. The landlord who is there to

cultivate the land, has to suffer every year as the tenant has gone away with the money. The compensation cannot therefore be given to the cultivating tenant. If the compensation amount is given to the kanam tenant he should be asked to return it to the landlord when the property is redeemed. If it is given to the janmi, he will reduce the rent to the extent of the loss which the cultivating tenant suffers on account of not getting sufficient water from the irrigation system. The compensation amount cannot be paid to the cultivating tenant because he can surrender the land at any time under a registered notice. The landlord will have to find another tenant. These are some of the defects which may be considered and rectified when the tenancy legislation is taken
6-45 p.m. up. It is absolutely necessary that these defects should be removed. I hope the Hon. Revenue Minister will look into them with an impartial mind.

"Because under the Tenants' Improvements Act, even if a tenant makes an improvement at the time of redemption or at the time of commencement of ejection, the jenmies are entitled to get a commission. Hence my above submission, Sir."

THE HON. SRI K. MADHAVA MENON :—"Mr. President, I would not have intervened in this debate at all, but for the speech of my hon. friend Mr. Narayana Menon which is likely to give an impression that the whole of Malabar agrees with him in the views he has expressed just now on this matter. Sir, I too have known many people in Malabar and I have also known their opinion in regard to this matter and I can say that their views are not in accord with those just now expressed by Mr. Narayana Menon.

"With regard to the defects pointed out by him in clauses 5 and 6 of the Bill, I think those can be rectified by an executive order enabling the riparian owners to make use of water from these irrigation sources.

"In making certain observations about clause 14 of the Bill, and pointing out certain defects therein, I think my hon. Friend, Mr. Narayana Menon, was really viewing it from the point of view of the landlords and pleading their cause in this respect. If Government construct any irrigation work, it is in the land which is in possession of the tenant and not the landlord. I cannot find any logic or reason in my hon. Friend's argument about the landlord's claim for any enhanced rent. The policy of the Congress Government is that the intermediaries must go, as far as possible. Apart from that, so far as I know about the minds of the people in Malabar, I can boldly say that it is not their view that clause 14 should be so amended as to entitle the landlord to claim for an increase in rent or for a share in the benefits accruing out of the land on account of the irrigation work, for which he has not contributed anything. I do not want to say anything more on this.

25th April 1947] [Sri K. Madhava Menon]

except that it was my wish that the views expressed by my hon. Friend on behalf of the people of Malabar should not go unchallenged.''

THE HON. SRI KALA VENKATA RAO :—" Mr. President, the Hon. Leader of the Opposition appealed to me as Revenue Minister not to allow this Bill to die."

MR. PRESIDENT :—" I think what he said was, ' Let not the Minister sleep over the Bill.' "

THE HON. SRI KALA VENKATA RAO :—" I think he also used the word ' die,' Sir. Very well, Sir, I can promise him that when one is made responsible for the administration in a popular Government, he cannot in the least afford to sleep over any matters, and much less over this and I hope that Malabar will get the benefit under this Bill.

" Sir, the implications of my hon. Friend Mr. Narayana Menon's remarks with reference to irrigation projects were that if he were to be in charge of the treasury or to be on the Finance Committee, he would not let sleeping dogs lie, but he would wake them up, if at all that was needed.

" Then my hon. Friend Dr. John has pointed out a defect in clause 4 with reference to the prescription of date for the land to be acquired. I shall get the matter further examined by the Legal Department and other legal experts concerned and, if necessary, we shall get it amended at a later stage.

" My hon. Friend, Mr. Narayana Menon, has pointed out a number of things to which my hon. Colleague has replied. With reference to the defect pointed out in clause 5, as has been said by my friend Mr. Madhava Menon, it can be rectified by an executive order. With reference to the rate at which compensation is to be paid, he had also some complaints to make. I have explained the same thing yesterday in the Assembly. This 15 times the reduction in the net annual profits of the land caused by diminution in water-supply on account of the construction of the irrigation work, was arrived at after full discussion at a conference. The question was asked, while under the Land Acquisition Act the landlord is entitled to compensation at 20 times the annual rental value, why should it be only 15 times in the present case? The answer is, that simply because the man to whom this compensation is going to be paid is also one who is going to get the benefit of the irrigation work, he should forego a portion of the compensation. That is why we have cut down the compensation from 20 to 15 times in case water was used from the irrigation work for irrigation purposes and raised it from 12 to 15 times in case water was used for other than irrigation purposes, which is a fair compromise.

" With regard to clause 14, what my hon. Friend, Mr. Narayana Menon, said in effect was that the benefits accruing from the improvements should also be shared by the landlord. I can say this straightaway that this enactment does not confer any new rights

nor take away any old rights that were in existence at the time when this Act comes into force. It only seeks to see that any benefits accruing out of the State money being spent on the irrigation works, to the enhancement of the value of the land, should not go to the landlord. It is a negative provision inserted in this clause and it is there in order to help the tenant who is the actual cultivator.

"With reference to his question, to whom is this compensation payable, I would invite Mr. Narayana Menon to refer to sub-clause 5 of clause 6 which, I think, must satisfy him, because under this clause, it is the tribunal that is to apportion the compensation that is to be paid to the owners of areas to be acquired A special Act always supersedes a general Act and this being a special Act, even if it injures any of the provisions of the general Act, it should be deemed to be an improvement. The whole question should be looked at from the point of view of the benefit that it will confer on the people of Malabar and it is in that light that the Bill has been conceived and framed, and if anything more is to be done, it will be done at the proper time.

"Sir, I thank the House for the support it has accorded to this Bill and I request it to pass it into law immediately."

The motion was put and carried.

MR. PRESIDENT :—"I shall now put the Bill clause by clause to vote."

Clauses 2 to 20 of the Bill were put and carried.

Clause 1 was put and carried.

The Preamble was also put and carried.

THE HON. SRI KALA VENKATA RAO :—"Sir, I move—

'*that the Bill be now passed into law*'."

The motion was put and carried and the Bill was passed into law.

MOTION FOR ADJOURNMENT OF THE HOUSE *RE* GUNTUR FOOD SITUATION—*cont.*

MR. PRESIDENT :—"Mr. B. Narayanaswami Nayudu will now move his adjournment motion regarding the Guntur Food Situation."

SRI B. NARAYANASWAMI NAYUDU :—"Mr. President, Sir, with regard to the motion for adjournment regarding the statement of Government on the Guntur Food Situation, before taking it up directly, I shall just say one word at the outset. Unfortunately this statement has been given under the authority of the Government, or the Secretary, and I don't think it was their intention that a debate should be raised on it."

THE HON. DR. T. S. S. RAJAN :—"This is the Government statement that was presented in the other House, Sir."